

Assembly Bill No. 1594

CHAPTER 719

An act to amend Sections 40507 and 41781.3 of the Public Resources Code, relating to solid waste.

[Approved by Governor September 28, 2014. Filed with
Secretary of State September 28, 2014.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1594, Williams. Waste management.

The California Integrated Waste Management Act of 1989, which is administered by the Department of Resources Recycling and Recovery, establishes an integrated waste management program. The act requires the department to file an annual report, on or before March 1 of each year, with the Legislature, regarding the administration of the act during the prior calendar year.

This bill would require the department to include in the annual report, on or before March 1, 2015, a status update on the adequacy of funding from the Integrated Waste Management Fund for programs implemented pursuant to the act and pursuant to other specified provisions regulating waste management facilities. The bill would authorize the department to recommend alternative funding mechanisms for the programs, as specified.

Existing law requires each city, county, and joint powers authority formed under the act, referred to as a regional agency, to develop a source reduction and recycling element of an integrated waste management plan. The act requires the source reduction and recycling element to divert from disposal 50% of all solid waste subject to the element through source reduction, recycling, and composting activities, with specified exceptions. Under the act, the use of solid waste for beneficial reuse in the construction and operation of a solid waste landfill, including the use of alternative daily cover, constitutes diversion through recycling and is not considered disposal.

This bill, commencing January 1, 2020, would provide that the use of green material, as defined, as alternative daily cover does not constitute diversion through recycling and would be considered disposal for purposes of the act. The bill, commencing August 1, 2018, would require a local jurisdiction to include information in an annual report on how the local jurisdiction intends to address these diversion requirements and divert green material that is being used as alternative daily cover. The bill would require a jurisdiction that does not meet certain diversion requirements as a result of not being able to claim diversion for the use of green material as alternative daily cover to identify and address, in an annual report, barriers to recycling green material and, if sufficient capacity at facilities that recycle green material is not expected to be operational before a certain date, to

include a plan to address those barriers. The bill would impose a state-mandated local program by imposing new duties upon local agencies with regard to the diversion of solid waste.

Existing law requires the operator of a disposal facility to pay a quarterly fee based on the amount of solid waste disposed of at each disposal site.

This bill would provide that, commencing January 1, 2020, green material used as alternative daily cover at a solid waste landfill is not subject to this fee.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 40507 of the Public Resources Code is amended to read:

40507. (a) (1) On or before March 1 of each year, the department shall file an annual report with the Legislature highlighting significant programs or actions undertaken by the department to implement programs pursuant to this division during the prior calendar year. The report shall include, but is not limited to, the information described in subdivision (b).

(2) On or before March 1, 2015, the department shall provide in the annual report required pursuant to paragraph (1) a status update on the adequacy of funding from the Integrated Waste Management Fund for programs implemented pursuant to this division or Division 31 (commencing with Section 50000), including the adequacy of funding for the oversight of solid waste that is accepted at a disposal facility and is not subject to the fee imposed pursuant to Section 48000. In its report, the department may recommend alternative funding mechanisms for the programs that would achieve the requirements and policy goals of this division and Division 31 (commencing with Section 50000), including the statewide recycling goal of 75 percent pursuant to Section 41780.01.

(b) The department shall file annual progress reports with the Legislature covering the activities and actions undertaken by the department in the prior fiscal year. The department shall prepare, and may electronically file with the Legislature, the progress reports throughout the calendar year, as determined by the department, on the following programs:

- (1) The local enforcement agency program.
- (2) The research and development program.
- (3) The public education program.
- (4) The market development program.
- (5) The used oil program.
- (6) The planning and local assistance program.
- (7) The site cleanup program.

(c) The progress report shall specifically include, but is not limited to, all of the following information:

(1) Pursuant to paragraph (1) of subdivision (b), the status of the certification and evaluation of local enforcement agencies pursuant to Chapter 2 (commencing with Section 43200) of Part 4.

(2) Pursuant to paragraph (2) of subdivision (b), all of the following information:

(A) The results of the research and development programs established pursuant to Chapter 13 (commencing with Section 42650) of Part 3.

(B) A report on information and activities associated with the establishment of the Plastics Recycling Information Clearinghouse, pursuant to Section 42520.

(C) A report on the progress in implementing the monitoring and control program for the subsurface migration of landfill gas established pursuant to Section 43030, including recommendations, as needed, to improve the program.

(D) A report on the comparative costs and benefits of the recycling or conversion processes for waste tires funded pursuant to Chapter 17 (commencing with Section 42860) of Part 3.

(3) Pursuant to paragraph (3) of subdivision (b), all of the following information:

(A) A review of actions taken by the department to educate and inform individuals and public and private sector entities who generate solid waste on the importance of source reduction, recycling, and composting of solid waste, and recommendations for administrative or legislative actions that will inform and educate these parties.

(B) A report on the effectiveness of the public information program required to be implemented pursuant to Chapter 12 (commencing with Section 42600) of Part 3, including recommendations on administrative and legislative changes to improve the program.

(C) A report on the status and effectiveness of school district source reduction and recycling programs implemented pursuant to Chapter 12.5 (commencing with Section 42620) of Part 3, including recommendations on administrative and legislative changes to improve the program's effectiveness.

(D) A report on the effectiveness of the integrated waste management educational program and teacher training plan implemented pursuant to Part 4 (commencing with Section 71300) of Division 34, including recommendations on administrative and legislative changes that will improve the program.

(E) A summary of available and wanted materials, a profile of the participants, and the amount of waste diverted from disposal sites as a result of the California Materials Exchange Program established pursuant to subdivision (a) of Section 42600.

(4) Pursuant to paragraph (4) of subdivision (b), all of the following information:

(A) A review of market development strategies undertaken by the board pursuant to this division to ensure that markets exist for materials diverted from solid waste facilities, including recommendations for administrative and legislative actions that will promote expansion of those markets. The recommendations shall include, but not be limited to, all of the following:

(i) Recommendations for actions to develop more direct liaisons with private manufacturing industries in the state to promote increased utilization of recycled feedstock in manufacturing processes.

(ii) Recommendations for actions that can be taken to assist local governments in the inclusion of recycling activities in county overall economic development plans.

(iii) Recommendations for actions to utilize available financial resources for expansion of recycling industry capacity.

(iv) Recommendations to improve state, local, and private industry product and material procurement practices.

(B) Development and implementation of a program to assist local agencies in the identification of markets for materials that are diverted from disposal facilities through source reduction, recycling, and composting pursuant to Section 40913.

(C) A report on the Recycling Market Development Zone Loan Program conducted pursuant to Article 3 (commencing with Section 42010) of Chapter 1 of Part 3.

(D) A report on implementation of the Compost Market Program pursuant to Chapter 5 (commencing with Section 42230) of Part 3.

(E) A report on the progress in developing and implementing the comprehensive Market Development Plan, pursuant to Article 2 (commencing with Section 42005) of Chapter 1 of Part 3.

(F) The number of retreaded tires purchased by the Department of General Services during the prior fiscal year pursuant to Section 42414.

(G) The results of the study performed in consultation with the Department of General Services pursuant to Section 42415 to determine if tire retreads, procured by the Department of General Services, have met all quality and performance criteria of a new tire, including any recommendations to expand, revise, or curtail the program.

(H) The number of recycled lead-acid batteries purchased during the prior fiscal year by the Department of General Services pursuant to Section 42443.

(I) A list of established price preferences for recycled paper products for the prior fiscal year pursuant to paragraph (1) of subdivision (c) of Section 12162 of the Public Contract Code.

(J) A report on the implementation of the white office paper recovery program pursuant to Chapter 10 (commencing with Section 42560) of Part 3.

(5) Pursuant to paragraph (5) of subdivision (b), both of the following information:

(A) A report on the annual audit of the used oil recycling program established pursuant to Chapter 4 (commencing with Section 48600) of Part 7.

(B) A summary of industrial and lubricating oil sales and recycling rates, the results of programs funded pursuant to Chapter 4 (commencing with Section 48600) of Part 7, recommendations, if any, for statutory changes to the program, including changes in the amounts of the payment required by Section 48650 and the recycling incentive, and plans for present and future programs to be conducted over the next two years.

(6) Pursuant to paragraph (6) of subdivision (b), all of the following information:

(A) The development by the department of the model countywide or regional siting element and model countywide or regional agency integrated waste management plan pursuant to Section 40912, including its effectiveness in assisting local agencies.

(B) The adoption by the department of a program to provide assistance to cities, counties, or regional agencies in the development and implementation of source reduction programs pursuant to subdivision (c) of Section 40912.

(C) The development by the department of model programs and materials to assist rural counties and cities in preparing city and county source reduction and recycling elements pursuant to Section 41787.3.

(D) A report on the number of tires that are recycled or otherwise diverted from disposal in landfills or stockpiles.

(E) A report on the development and implementation of recommendations, with proposed implementing regulations, for providing technical assistance to counties and cities that meet criteria specified in Section 41782, so that those counties and cities will be able to meet the objectives of this division. The recommendations shall, among other things, address both of the following matters:

(i) Assistance in developing methods of raising revenue at the local level to fund rural integrated waste management programs.

(ii) Assistance in developing alternative methods of source reduction, recycling, and composting of solid waste suitable for rural local governments.

(F) A report on the status and implementation of the “Buy Recycled” program established pursuant to subdivision (d) of Section 42600, including the waste collection and recycling programs established pursuant to Sections 12164.5 and 12165 of the Public Contract Code.

(7) Pursuant to paragraph (7) of subdivision (b), a description of sites cleaned up under the Solid Waste Disposal and Codisposal Site Cleanup Program established pursuant to Article 2.5 (commencing with Section 48020) of Chapter 2 of Part 7, a description of remaining sites where there is no responsible party or the responsible party is unable or unwilling to pay for cleanup, and recommendations for any needed legislative changes.

SEC. 2. Section 41781.3 of the Public Resources Code is amended to read:

41781.3. (a) (1) Except as provided in paragraph (2), the use of solid waste for beneficial reuse in the construction and operation of a solid waste landfill, including use of alternative daily cover, which reduces or eliminates the amount of solid waste being disposed pursuant to Section 40124, shall constitute diversion through recycling and shall not be considered disposal for purposes of this division.

(2) (A) Commencing January 1, 2020, the use of green material as alternative daily cover does not constitute diversion through recycling and shall be considered disposal for purposes of this division.

(B) Commencing January 1, 2020, a local jurisdiction that, as a result of not being able to claim diversion for the use of green material as alternative daily cover, does not meet the requirements of Section 41780 shall, in the next annual report required pursuant to Section 41821, identify and address barriers to recycling green material and, if sufficient capacity at facilities that recycle green material is not expected to be operational before the jurisdiction's next review pursuant to Section 41825, include a plan to address those barriers that are within the control of the local jurisdiction.

(C) Commencing January 1, 2020, green material used as alternative daily cover at a solid waste landfill is not subject to the fee imposed on disposed solid waste pursuant to Section 48000.

(3) Commencing August 1, 2018, a local jurisdiction shall include in the electronic annual report required pursuant to Section 41821 information on how the local jurisdiction intends to address the requirements of subparagraph (A) of paragraph (2) and divert green material that is being used as alternative daily cover.

(b) Before December 31, 1997, pursuant to the department's authority to adopt rules and regulations pursuant to Section 40502, the department shall, by regulation, establish conditions for the use of alternative daily cover that are consistent with this division. In adopting the regulations, the department shall consider, but is not limited to consideration of, all of the following criteria:

(1) Those conditions established in past policies adopted by the department affecting the use of alternative daily cover.

(2) Those conditions necessary to provide for the continued economic development, economic viability, and employment opportunities provided by the composting industry in the state.

(3) Those performance standards and limitations on maximum functional thickness necessary to ensure protection of public health and safety consistent with state minimum standards.

(c) Until the adoption of additional regulations, the use of alternative daily cover shall be governed by the conditions established by the department in its existing regulations set forth in paragraph (3) of subdivision (b) of, and paragraph (3) of subdivision (c) of, Section 18813 of Title 14 of the California Code of Regulations, as those sections read on January 1, 1997, and by the conditions established in the department's policy adopted on January 25, 1995.

(d) In adopting rules and regulations pursuant to this division, including, but not limited to, Part 2 (commencing with Section 40900), the department shall provide guidance to local enforcement agencies on any conditions and restrictions on the utilization of alternative daily cover so as to ensure proper enforcement of those rules and regulations.

(e) Nothing in this section modifies, limits, or abrogates the authority of a local jurisdiction with respect to land use, zoning, or facility siting decisions within that local jurisdiction.

(f) For purposes of this section, “green material” has the same meaning as “processed green material,” as defined in subdivision (b) of Section 20690 of Title 27 of the California Code of Regulations. The term does not include materials left over from the composting process, materials left over after the material recovery process, commonly referred to as “fines,” or processed construction and demolition waste materials.

(g) For purposes of this section, “processed construction and demolition waste material” has the same meaning as defined in subdivision (b) of Section 20690 of Title 27 of the California Code of Regulations.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.